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In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1427

VINCENT MORAN DOSS,

Petitioner,

vs.

UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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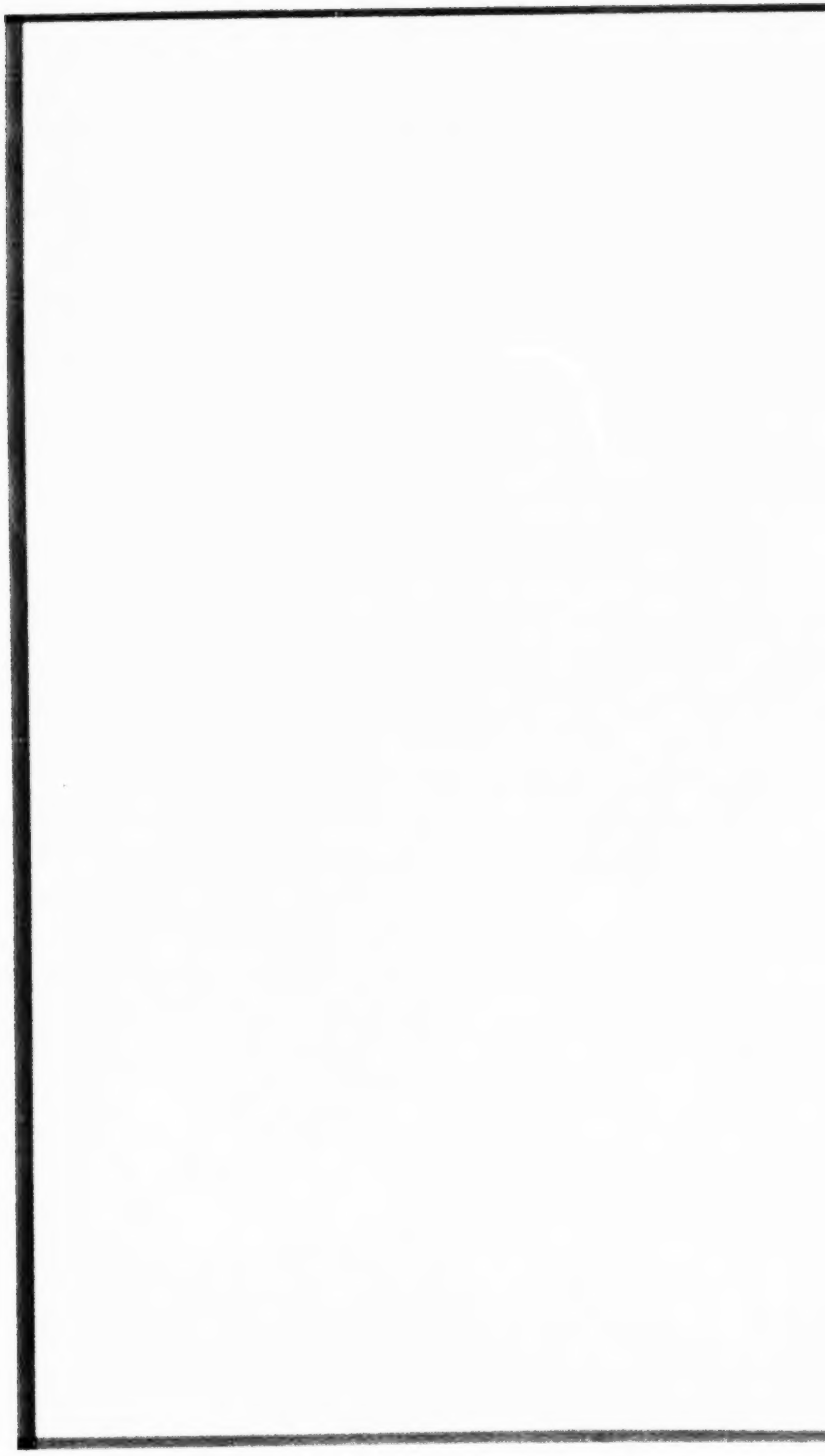

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner prays that a Writ of Certiorari issue to the decision of the United States Court of Appeals for the Sixth Circuit decided and filed on January 14, 1974. No petition for rehearing was filed with the United States Court of Appeals for the Sixth Circuit in this cause.

OPINION BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit was filed January 14, 1974. A copy of said decision is attached hereto and made a part of this Petition for Writ of Certiorari.

JURISDICTION

The order of the Court of Appeals for the Sixth Circuit denying petitioner's motion to set his bond pending appeal in this case was entered on January 14, 1974, and petitioner did not file a motion to rehear before the United States Court of Appeals for the Sixth Circuit.

Jurisdiction of the Court is invoked pursuant to Title 28, United States Code, Section 1254(1), and pursuant to Rule 19 1 (b) of the Revised Rules of the Supreme Court of the United States adopted June 15, 1970.

QUESTION PRESENTED

1. Whether the petitioner's rights under the Eighth Amendment to the Constitution of the United States were violated by the action of the Court of Appeals in refusing to set petitioner's bond pending appeal in this case.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Eighth Amendment to the Constitution of the United States.

STATEMENT OF THE CASE

1. Petitioner, Vincent Moran Doss, was indicated in the United States District Court for the Western District of Tennessee on October 10, 1972, for the offense of causing Paul Patterson to keep and conceal in his possession, and to transport through the Western District of Tennessee counterfeit money. Petitioner was also, on the same date, indicted in said District for the offense of knowingly causing Nolan Ray Williamson and Paul Patterson to possess with intent to distribute approximately 20,000 capsules of a substance containing amphetamines, a controlled substance under Title 21, United States Code, Section 812. These cases were consolidated and tried together.

2. On November 29, 1972, petitioner's bond was set at $25,000.00 in each case, and an additional bond of $10,000.00 was set in another case, making a total secured bond of $60,000.00, which was furnished by petitioner and petitioner was released on such secured bond on that date. Petitioner remained out on bond until September 28, 1973, when petitioner was convicted under each of these indictments. Upon the return of the jury verdict of guilty, the United States District Court summarily revoked all of petitioner's bonds.

3. On November 5, 1973, petitioner filed a motion with the United States District Court for the Western District of Tennessee to set bond for petitioner pending his appeal of his said convictions to the United States Court of Appeals for the Sixth Circuit. The District Court entered an order denying such motion.

4. Petitioner duly filed notice of appeal from such order denying petitioner bond pending appeal.

5. On December 21, 1973, petitioner filed a motion in the United States Court of Appeals for the Sixth Circuit to set bond for petitioner pending his appeal in these two cases. On January 14, 1974, the United States Court of Appeals entered an order denying petitioner's motion to set bond pending appeal.

6. Defendant is here complaining of the action of the Court of Appeals in refusing to set bond for petitioner pending appeal.

ARGUMENT

1. Were petitioner's rights under the Eighth Amendment to the Constitution of the United States abridged and violated by the action of the Court of Appeals for the Sixth Circuit in refusing to set bond for petitioner pending appeal of these cases?

The United States Court of Appeals for the Sixth Circuit answered no, but the petitioner respectfully submits that the answer should have been yes.

Petitioner avers that, inasmuch as he was out on bond from November 29, 1972, through September 28, 1973, or almost a year, and during this time he appeared in Court whenever his presence was required, and has made no effort to flee, and there is no indication that he has any disposition to flee, nor is there any likelihood that he will flee, petitioner respectfully submits that the action of the Court of Appeals in refusing to set his bond pending appeal of his conviction in this case, deprived him of his right to reasonable bail or bond under the Eighth Amendment to the Constitution of the United States.

Petitioner cites the following cases to support his position:

Chambers v. *Mississippi,* (1972)
410 U.S. 284
30 L.Ed. (2d) 773

Rivera v. *Concepcion,* (C.A. 1, 1972)
469 F.(2d) 17

CONCLUSION

Petitioner respectfully submits that based upon the fact that he was out on bond for almost a year and showed up in Court whenever his presence was required, that he should be afforded the right to reasonable bond in accordance with the Eighth Amendment.

Respectfully submitted,

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APPENDIX

No. 73-8217

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

VINCENT MORAN DOSS,
Defendant-Appellant.

ORDER

(Filed January 14, 1974)

The present motion of appellant seeks his release on bail pending appeal. A similar application for release was made in the first instance in the district court as required by Rule 9, Federal Rules of Appellate Procedure.

The district court conducted a hearing on the defendant's motion for bail pending appeal and at the end of that hearing, the court entered its oral findings of fact. On November 14, 1973, the district court entered an order denying the defendant's motion for bail and on December 20, 1973, the court declined to write a memorandum of its findings. It thereby allowed the transcript of its oral remarks to suffice for compliance with Rule 9(b) of the Federal Rules of Appellate Procedure.

The transcript of the court's statement following the bail hearing satisfies the requirement of Rule 9(b) that the findings be in writing. *United States* v. *Manarite*, 430 F.2d 656 (2d

Cir. 1970). Based on the evidence at the hearing, the court found that the defendant posed a danger to the community.

Upon consideration, it is determined that the motion is not well taken.

It is therefore ORDERED that motion for bail pending appeal be and it is hereby denied.

ENTERED BY ORDER OF THE COURT.

/s/ JAMES A. HIGGINS
Clerk